

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLINTON CAPITAL CORPORATION,

Plaintiff,

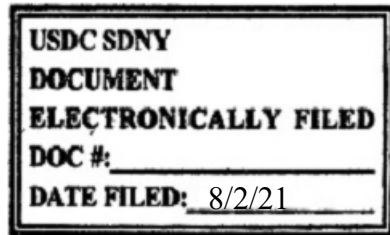
-against-

257 WEST 21ST STREET ASSOCIATES,
INC., et al.,

Defendants.

16-MC-353 (LAK) (BCM)

ORDER



BARBARA MOSES, United States Magistrate Judge.

This action was initiated by Clinton Capital Corporation (Clinton) on October 4, 2016, pursuant to Fed. R. Civ. P. 69(a)(2), to obtain discovery in aid of its efforts to collect a judgment entered more than 25 years ago, on June 27, 1995, and recorded on June 30, 1995, against 257 West 21st Street Associates, Inc., 257 West 21st Street Equities, Inc., and Christopher McNeur (McNeur), in the amount of \$382,612.42. (Dkt. No. 66-11). The proceedings in this Court since 2016 have consisted primarily of motions to compel compliance with, or sanction noncompliance with, numerous nonparty subpoenas served by Clinton upon persons and entities that are associated with McNeur and that Clinton suspects of holding or hiding assets belonging to McNeur.

Most recently, by letter-motion dated June 4, 2021, Clinton seeks to compel thirteen non-party entities (the Entities) to produce additional documents in response to subpoenas *duces tecum* (the Subpoenas) dated September 19 and December 2, 2019. The Subpoenas were served on the following Entities and appear in the record at the following docket numbers:

172 E Holding LLC (Dkt. No. 87-4)
974 St. Nicholas Ave Management LLC (Dkt. No. 87-5)
2599 Enterprise (referred to elsewhere as 2599 Enterprise LLC) (Dkt. No. 87-6)
Elite View International Holdings (Dkt. No. 87-7)
Elite View International Capital (Dkt. No. 87-8)
Elite View International Trading (Dkt. No. 87-9)
AWM Holding LLC (Dkt. No. 87-10)
Byblos Offices LLC (Dkt. No. 87-11)
MAJA Equities LLC (Dkt. No. 87-12)
974 St. Nicholas Avenue Equities, Inc. (Dkt. No. 87-24)

974 St. Nicholas Avenue Associates Limited Partnership (Dkt. No. 87-25)
 East-West Country Art Ltd. (Dkt. No. 87-26)
 JJMA Inc. (Dkt. No. 87-30)¹

The Entities are or were in the real estate business.² According to plaintiff, they are "nominally held by Ana McNeur," who is McNeur's wife. (Dkt. No. 87 at 3.) The Entities are represented in this action by McNeur's counsel, who served written responses on November 15, 2019 and January 27, 2020 (Dkt. Nos. 87-13 through 87-21, 87-27 through 87-29) and produced certain documents. *See, e.g.*, Feb. 20, 2020 letter from Lieser to Northridge (Dkt. No. 87-23) (attaching bates stamped documents). Plaintiff contends that the production to date has been insufficient. The Entities contend that they made a good-faith effort to respond to overbroad and poorly drafted Subpoenas, assert that many of the documents sought simply do not exist, and point out that this is not the first time they have been required to respond to subpoenas from Clinton. *See, e.g.*, Leiser Decl. Exs. 1-2 (Dkt. Nos. 89-2 and 89-3) (responses to subpoenas dated December 21, 2016 and October 3, 2017, both served upon 974 St. Nicholas Ave Management LLC). Plaintiff acknowledges that there is overlap between the

¹ There is some confusion concerning the number and identity of the subpoenas in dispute, because Clinton filed two different letter-motions on June 4. The first (Dkt. No. 85) which sought a pre-motion discovery conference, listed sixteen "subpoenas at issue" in a footnote, but attached copies of only twelve. (Dkt. Nos. 85-2 through 85-10, 85-20 through 85-22.) The second letter-motion (Dkt. No. 87), filed a few minutes later, sought an order compelling compliance with "certain nonparty subpoenas," again listed sixteen in a footnote, but attached copies of only thirteen – those listed above. Further muddying the waters, Clinton's attorney Keith C. Northridge represented during today's conference that plaintiff seeks to compel compliance with only nine subpoenas. Attorney Northridge appears to have been mistaken. I note that on June 17, 2021, attorney David I. Lieser (counsel to McNeur) filed an opposition letter-brief (Dkt. No. 89), on behalf of the thirteen Entities listed above. Like attorney Lieser, the Court construes the motion as seeking to enforce compliance with the thirteen Subpoenas attached to Dkt. No. 87 and listed in the body of this Order.

² Some of them (for example, 974 St. Nicholas Avenue Equities, Inc. and 974 St. Nicholas Avenue Associates Limited Partnership) no longer exist. According to attorney Lieser, 974 St. Nicholas Avenue Equities, Inc. was dissolved in 1997, and 974 St. Nicholas Avenue Associates Limited Partnership was "converted to" 974 St. Nicholas Ave Management LLC (which apparently still exists) in 1996. Lieser Decl. (Dkt. No. 89-1) ¶¶ 6-7.

previous subpoenas and the Subpoenas now at issue, and that it did not seek judicial intervention with respect to the earlier subpoenas.

After carefully considering the letter-briefs and arguments of Clinton and the Entities, and for the reasons discussed on the record during today's discovery conference, it is hereby ORDERED that, to the extent it has not previously done so, each Entity shall produce, on or before **November 2, 2021**:

1. All bank statements, and all checks, wire transfer records, and other source documents, reflecting the payment of money from December 1, 2016 through July 31, 2021 from that Entity to McNeur and/or Ana McNeur, regardless of how the payment is characterized (*e.g.*, salary, bonus, fee, distribution, carried interest, return of capital, advance, loan, loan repayment, expense reimbursement) and regardless of whether the payment is made directly or indirectly. For purposes of this paragraph, a payment is made "indirectly" when it is made (a) to an entity (other than the Entities that are the subjects of this Order) that is majority-owned and/or controlled by McNeur and/or Ana McNeur (b) to a trust for the benefit of McNeur and/or Ana McNeur; or (c) to any other person or entity for the purpose of making a further payment to McNeur and/or Ana McNeur.
2. All of its governing documents (*e.g.*, articles of incorporation, articles of organization, partnership agreements, bylaws) in effect from December 1, 2016 through July 31, 2021.
3. All minutes or other records of the meetings of its shareholders, directors, partners, or members from December 1, 2016 through July 31, 2021.
4. With respect to dissolved Entities, all documents reflecting their dissolution, including the disposition of their assets, at any time since January 1, 1995.
5. The deed to the property known as 974 St. Nicholas Avenue, New York, New York.

6. All documents reflecting the changes in ownership of the property known as 974 St. Nicholas Avenue, New York, New York, among and between the Entities, including the consideration therefor, at any time since January 1, 1995.

The Clerk of Court is respectfully directed to close Dkt. Nos. 85, 87, and 89.

Dated: New York, New York
August 2, 2021

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge